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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SADDLE MOUNTAIN MINERALS,
L.L.C.,

Plaintiff/Petitioner,

v.

CITY OF RICHLAND, a Washington
municipal corporation,

Defendant.

NO. 4:22-cv-05055-TOR

ANSWER AND AFFIRMATIVE
DEFENSES OF DEFENDANT
CITY OF RICHLAND

Defendant City of Richland (the "City") answers plaintiff's Complaint
and Land Use Petition (the "Complaint") as follows:

INTRODUCTION

1. Answering the first and second sentences of paragraph 1 of the
Complaint, the City denies the same. Answering the third sentence of
paragraph 1 of the Complaint, said sentence makes no allegations against the
City and no answer is therefore required from the City. To the extent an

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3 answer is required, the City admits that the plaintiff filed the Complaint and
4
5 denies the existence of any "wrongs."

6 **PARTIES**

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8 2. Answering paragraph 2 of the Complaint, the City is without
9 information or knowledge sufficient to form a belief as to the truth of said
10 allegations, and therefore denies the same.

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12 3. Answering paragraph 3 of the Complaint, the City admits the
13 same.

14 **JURISDICTION AND VENUE**

15
16 4. Answering paragraph 4 of the Complaint, the City admits the
17 same, subject to removal of this action to federal court.

18
19 5. Answering paragraph 5 of the Complaint, the City admits the
20 same, subject to removal of this action to federal court.

21 **FACTS**

22
23 6. Answering paragraph 6 of the Complaint, said paragraph makes
24 no allegations against the City and no answer is therefore required from the
25 City. To the extent an answer is required, the City is without information or
26 knowledge sufficient to form a belief as to the truth of said allegations, and
27 therefore denies the same.
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3 7. Answering paragraph 7 of the Complaint, said paragraph makes
4
5 no allegations against the City and no answer is therefore required from the
6 City. To the extent an answer is required, the City is without information or
7 knowledge sufficient to form a belief as to the truth of said allegations, and
8 therefore denies the same.
9

10 8. Answering paragraph 8 of the Complaint, said paragraph makes
11
12 no allegations against the City and no answer is therefore required from the
13 City. To the extent an answer is required, the City admits only the existence of
14 a deed recorded on June 28, 1988, which speaks for itself, and denies any other
15 or different characterization of same.
16

17 9. Answering paragraph 9 of the Complaint, said paragraph makes
18
19 no allegations against the City and no answer is therefore required from the
20 City. To the extent an answer is required, the City admits only the existence of
21 a deed recorded on June 28, 1988, which speaks for itself, and denies any other
22 or different characterization of same.
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24 10. Answering paragraph 10 of the Complaint, said paragraph makes
25
26 no allegations against the City and no answer is therefore required from the
27 City. To the extent an answer is required, the City admits only the existence of
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3 a deed recorded on June 28, 1988, which speaks for itself, and denies any other
4 or different characterization of same.
5

6 11. Answering paragraph 11 of the Complaint, said paragraph makes
7 no allegations against the City and no answer is therefore required from the
8 City. To the extent an answer is required, said paragraph makes legal
9 conclusions to which no answer is required. To the extent an answer is
10 nevertheless required, the City admits only the existence of the deeds, which
11 speak for themselves, and denies any other or different characterization of
12 same. The City denies each and every other allegation of said paragraph.
13
14

15 12. Answering paragraph 12 of the Complaint, said paragraph makes
16 no allegations against the City and no answer is therefore required from the
17 City. To the extent an answer is required, the City is without information or
18 knowledge sufficient to form a belief as to the truth of said allegations, and
19 therefore denies the same.
20
21

22 13. Answering paragraph 13 of the Complaint, said paragraph makes
23 no allegations against the City and no answer is therefore required from the
24 City. To the extent an answer is required, the City is without information or
25 knowledge sufficient to form a belief as to the truth of said allegations, and
26 therefore denies the same.
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3 14. Answering paragraph 14 of the Complaint, said paragraph makes
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5 no allegations against the City and no answer is therefore required from the
6 City. To the extent an answer is required, the City admits only the existence of
7 case authority cited in paragraph 14 of the Complaint, which speaks for itself,
8
9 and denies any other or different characterization of same.

10 15. Answering paragraph 15 of the Complaint, said paragraph makes
11
12 no allegations against the City and no answer is therefore required from the
13 City. To the extent an answer is required, the City is without information or
14 knowledge sufficient to form a belief as to the truth of said allegations, and
15
16 therefore denies the same.

17 16. Answering paragraph 16 of the Complaint, said paragraph makes
18
19 legal conclusions to which no answer is required. To the extent an answer is
20 required, the City is without information or knowledge sufficient to form a
21 belief as to the truth of said allegations, and therefore denies the same.

22 17. Answering paragraph 17 of the Complaint, the City admits only
23
24 the existence of RMC Title 23, which speaks for itself, and denies any other or
25 different characterization of same.

26 18. Answering the first sentence of paragraph 18 of the Complaint,
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28 said sentence makes no allegations against the City and no answer is therefore

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3 required from the City. To the extent an answer is required, the City is without
4 information or knowledge sufficient to form a belief as to the truth of said
5 allegations, and therefore denies the same. Answering the second sentence of
6 paragraph 18 of the Complaint, the City admits the same.
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8

9 19. Answering paragraph 19 of the Complaint, said paragraph makes
10 legal conclusions to which no answer is required. To the extent an answer is
11 required, the City admits only the existence of RMC 23.22.030, which speaks
12 for itself, and denies any other or different characterization of same.
13

14 20. Answering paragraph 20 of the Complaint, the City admits the
15 same.
16

17 21. Answering paragraph 21 of the Complaint, the City admits only
18 the existence of a letter from Planning Manager Mike Stevens dated March 24,
19 2022, which speaks for itself, and denies any other or different characterization
20 of same. The City denies each and every other allegation of said paragraph.
21

22 22. Answering paragraph 22 of the Complaint, said paragraph makes
23 legal conclusions to which no answer is required. To the extent an answer is
24 required, the City denies the same.
25

26 23. Answering the first sentence of paragraph 23 of the Complaint,
27 the sentence makes no allegations against the City and no answer is therefore
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3 required from the City. To the extent an answer is required, the City is without
4 information or knowledge sufficient to form a belief as to the truth of said
5 allegations, and therefore denies the same. Answering the second sentence of
6 paragraph 23 of the Complaint, said sentence erroneously characterizes the
7 March 24, 2022, letter of Planning Manager Mike Stevens and, further, makes
8 legal conclusions to which no answer is required. To the extent an answer is
9 required, the City denies the same. The City denies each and every other
10 allegation of said paragraph.
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14 24. Answering the first sentence of paragraph 24 of the Complaint,
15 said sentence makes legal conclusions to which no answer is required. To the
16 extent an answer is required, the City denies the same. Answering the second
17 sentence of paragraph 24 of the Complaint, said sentence makes no allegations
18 against the City and no answer is therefore required from the City. To the
19 extent an answer is required, the City denies the same. Answering the third
20 sentence of paragraph 24 of the Complaint, said sentence makes no allegations
21 against the City and no answer is therefore required from the City. To the
22 extent an answer is required, the City admits that plaintiff seeks a remedy and
23 denies that plaintiff is entitled to a remedy. The City denies each and every
24 other allegation of said paragraph.
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FIRST CAUSE OF ACTION: Land Use Petition

25. Paragraphs 25-36 of the Complaint contain elements corresponding with a land use petition set forth in RCW 36.70C.070 of Washington's Land Use Petition Act ("LUPA"), Ch. 36.70C RCW, to which no response is required pursuant to RCW 36.70C.080(6). To the extent said allegations relate to claims other than those arising under LUPA, the City reincorporates its prior answers as if fully set forth herein.

26. In further answer, the plaintiff/petitioner failed to name and serve Croskrey Properties, LLC, the owner of Benton County Parcel No. 111881012147003 as identified in records of the Benton County Assessor within 21 days of March 24, 2022. For this reason, the LUPA petition is barred pursuant to RCW 36.70C.040(2).

SECOND CAUSE OF ACTION: Due Process Violation

27. Answering paragraph 37 of the Complaint, the City incorporates by reference each and every answer to allegations set forth in paragraphs 1-36 of the Complaint as though set forth in full.

28. Answering paragraph 38 of the Complaint, said paragraph makes no allegations against the City and no answer is therefore required from the City. To the extent an answer is required, the City is without information or

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3 knowledge sufficient to form a belief as to the truth of said allegations, and
4 therefore denies the same.
5

6 29. Answering paragraph 39 of the Complaint, said paragraph makes
7 legal conclusions to which no answer is required. To the extent an answer is
8 required, the City admits only the existence of the Richland Municipal Code,
9 which speaks for itself, and denies any other or different characterization of
10 same.
11
12

13 30. Answering paragraph 40 of the Complaint, said paragraph makes
14 legal conclusions to which no answer is required. To the extent an answer is
15 required, the City admits only the existence of the state and federal
16 constitutions, each of which speaks for itself, and denies any other or different
17 characterization of same.
18
19

20 31. Answering paragraph 41 of the Complaint, the City lacks
21 information or knowledge sufficient to form a belief as to what plaintiff was
22 "informed" or what the plaintiff "believes," and therefore denies the same. The
23 City denies each and every other allegation of said paragraph.
24

25 32. Answering paragraph 42 of the Complaint, the City denies the
26 same.
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33. Answering paragraph 43 of the Complaint, the City denies the same.

34. Answering the first sentence of paragraph 44 of the Complaint, said sentence makes no allegations against the City and no answer is therefore required from the City. To the extent an answer is required, the City admits only that plaintiff seeks a declaratory judgment and denies that the plaintiff is entitled to a declaratory judgment. Answering the second, third, and fourth sentences of paragraph 44 of the Complaint, said sentences make legal conclusions to which no answer is required. To the extent an answer is required, the City denies the same. The City denies each and every other allegation of said paragraph.

THIRD CAUSE OF ACTION: Taking of Property

35. Answering paragraph 45 of the Complaint, the City incorporates by reference each and every answer to allegations set forth in paragraphs 1-44 of the Complaint as though set forth in full.

36. Answering paragraph 46 of the Complaint, said paragraph makes legal conclusions to which no answer is required. To the extent an answer is required, the City admits only the existence of Article I, Section 16 of the

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3 Washington State Constitution, which speaks for itself, and denies any other or
4 different characterization of same.
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6 37. Answering paragraph 47 of the Complaint, the City denies the
7 same.
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9 38. Answering paragraph 48 of the Complaint, the City admits only
10 the existence of a March 24, 2022, letter from Planning Manager Mike Stevens
11 to plaintiff, which speaks for itself, and denies any other or different
12 characterization of same. The City denies each and every other allegation of
13 said paragraph.
14

15 39. Answering the first sentence of paragraph 49 of the Complaint,
16 said sentence makes legal conclusions to which no answer is required. To the
17 extent an answer is required, the City admits only the existence of RMC
18 23.70.140, which speaks for itself, and denies any other or different
19 characterization of same. Answering the second sentence of paragraph 49 of
20 the Complaint, the City admits only the existence of a March 24, 2022, letter
21 from Planning Manager Mike Stevens to plaintiff, which speaks for itself, and
22 denies any other or different characterization of same. The City denies each
23 and every other allegation of said paragraph.
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3 40. Answering the first sentence of paragraph 50 of the Complaint,
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5 the City denies the same. Answering the second sentence of paragraph 50 of
6 the Complaint, the City admits only the existence of utility easements and
7 improvements, to include streets and roads, and that some improvements were
8 constructed for a public purpose and are used by the public. The City denies
9 each and every other allegation of said paragraph.
10

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12 41. Answering the first sentence of paragraph 51 of the Complaint,
13 said sentence makes no allegations against the City and no answer is therefore
14 required from the City. To the extent an answer is required, the City admits
15 that plaintiff seeks compensation and a declaratory judgment and denies that
16 the plaintiff is entitled to compensation or a declaratory judgment. Answering
17 the second, third, and fourth sentences of paragraph 51 of the Complaint, said
18 sentences make legal conclusions to which no answer is required. To the
19 extent an answer is required, the City denies the same. The City denies each
20 and every other allegation of said paragraph.
21
22
23

24 42. Answering paragraph 52 of the Complaint, said paragraph makes
25 no allegations against the City and no answer is therefore required from the
26 City. To the extent an answer is required, the City admits that the plaintiff
27 seeks compensation under the state and federal constitutions and denies that
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3 plaintiff is entitled to compensation under the state or federal constitutions.

4
5 The City denies each and every other allegation of said paragraph.

6 **FOURTH CAUSE OF ACTION: 42 U.S.C. 1983.**

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8 43. Answering paragraph 53 of the Complaint, the City incorporates
9 by reference each and every answer to allegations set forth in paragraphs 1-52
10 of the Complaint as though set forth in full.

11
12 44. Answering paragraph 54 of the Complaint, said paragraph makes
13 legal conclusions to which no answer is required. To the extent an answer is
14 required, the City admits the same.

15
16 45. Answering paragraph 55 of the Complaint, said paragraph makes
17 legal conclusions to which no answer is required. To the extent an answer is
18 required, the Complaint appears to challenge hundreds or even thousands of
19 unspecified land use decisions, which are not identified in the Complaint. The
20 City is without information or knowledge sufficient to form a belief as to the
21 truth of said allegations, and therefore denies the same.
22
23

24 46. Answering paragraph 56 of the Complaint, the City denies the
25 same.
26

27 47. Answering paragraph 57 of the Complaint, the City denies the
28 same.

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48. Except to the extent specifically admitted above, the City denies each and every remaining allegation of the Complaint.

PLAINTIFF'S PRAYER FOR RELIEF

The City denies that plaintiff is entitled to any of the relief requested in the section of the Complaint styled "Prayer for Relief."

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.

2. Plaintiff's claims are barred by the statute of limitations.

3. Plaintiff's claims are barred by the equitable doctrine of laches.

4. Plaintiff has failed to mitigate its damages.

5. Plaintiff's claims are not ripe.

6. Plaintiff has failed to exhaust its administrative remedies.

7. The damages alleged to have been sustained by plaintiff were proximately caused or materially contributed to by the acts or omissions of others, including plaintiff, over whom the City had no control, or right of control.

8. Plaintiff has failed to establish municipal liability pursuant to *Monnell v. Dep't of Social Services*, 436 U.S. 658 (1978).

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3 9. The plaintiff has failed to join persons needed for just adjudication
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5 as set forth in Rule 12(b)(7) and Rule 19, including such persons who are or
6
7 who may be directly affected by a determination of the matters and issues
8
9 raised in the Complaint.

10 **DEFENDANT CITY OF RICHLAND'S PRAYER FOR RELIEF**

11 WHEREFORE, defendant City of Richland having fully answered
12
13 plaintiff's Complaint and having asserted its affirmative defenses, prays as
14
15 follows:

16 1. That the Complaint be dismissed with prejudice and without an
17
18 award of any relief of any kind whatsoever in favor of plaintiff.

19 2. For such other and further relief as the Court deems just and
20
21 equitable.

22 3. For all of the City's costs and expenses incurred, including
23
24 reasonable attorneys' fees as may be allowed by statute, contract, at law, or in
25
26 equity.

27 DATED THIS 6th day of May, 2022.

28 s/ KENNETH W. HARPER
29 WSBA #25578
30 s/QUINN N. PLANT
 WSBA #31339
 Menke Jackson Beyer, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2022, I filed the foregoing *Answer and Affirmative Defenses of the City of Richland* with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

Richard M. Stephens
stephens@sklegal.pro

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

s/Cindy Maley
Legal Assistant
Menke Jackson Beyer, LLP

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